

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENJAMIN KARL RAY BUNTON,

Plaintiff,

v.

KEVIN SMITH, et al.,

Defendants.

Case No. 1:23-cv-00211-JLT-SAB

ORDER TO SHOW CAUSE WHY THIS
CASE SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE AND FAILURE
TO COMPLY WITH A COURT ORDER

As relevant here, on September 5, 2025, the Court issued an order to show cause ordering Plaintiff, who is proceeding *pro se* and *in form pauperis*, to show cause in writing whether he intended to continue prosecuting this action. (ECF No. 62.) The deadline for Plaintiff to file a response to the order to show cause expired, and Plaintiff failed to file a response. On September 29, 2025, Defendants moved to dismiss this case, pursuant to Fed. R. Civ. P. 41, for failure to prosecute and failure to comply with the Court's September 5, 2025 order to show cause. (ECF No. 64.) The deadline to file an opposition has passed, and Plaintiff has again failed to file anything on the docket.

Before deciding whether to take Defendants' motion under submission, the Court will—in an abundance of caution—issue a final order to show cause, as well as offer Plaintiff a final opportunity to oppose the motion to dismiss. The Court does so in particular because Plaintiff is representing himself and because a dismissal pursuant to Fed. R. Civ. P. 41 in this case would be

1 with prejudice.

2 Accordingly, IT IS HEREBY ORDERED that Plaintiff is ordered to show cause, in
3 writing, by no later than **October 30, 2025**, why this matter should not be dismissed for failure to
4 prosecute and failure to comply with a Court order, pursuant to Fed. R. Civ. P. 41. At the same
5 time, Plaintiff may address the points raised in Defendants' motion to dismiss.

6 Plaintiff is HEREBY NOTIFIED that **failure to respond to this order to show cause will**
7 **result in the issuance of findings and recommendations recommending that the assigned**
8 **District Judge dismiss this case with prejudice.**

9
10 IT IS SO ORDERED.

11 Dated: **October 15, 2025**



STANLEY A. BOONE
United States Magistrate Judge